

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD MEETING

Cannon Health Building
288 North 1460 West
Salt Lake City, Utah 84114

September 24, 2001
2:30 pm

UTAH WATER QUALITY BOARD MEMBERS PRESENT

K.C. Shaw, Chair	Mayor John Cushing (by phone)
J. Ann Wechsler	Dianne Nielson (by phone)
Robert G. Adams	Ron Sims
Bill Williams (by phone)	Nan Bunker

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Don Ostler, Faye Bell, Walter Baker, Tim Beavers, Jay Pitkin, Peter Gessel, Fred Pehrson, Wayne Thomas, Theron Miller, Rand Fisher

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
LeBlanc, Daron	Sunrise Engineering/Bear Lake SSD
Nielson, Bryce	Rich County Commission
Stringham, David	Bear Lake Special Service District
Price, Arlo B.	Bear Lake Special Service District
Fisher, Reed N.	CVWRF
Jensen, Kris	EPA
Johnson, Doug	Canyon Fuel Co.
Hansen, Chris	Canyon Fuel Co.
Johanson, Eugene	Emery Water Conservancy District
Humphrey, Jay	Emery Water Conservancy District
Jensen, Kay	Huntington-Cleveland Irrigation Co.
Rowley, Darrell	Huntington City
Ward, Dennis	Huntington-Cleveland Irrigation Co.

Chairman Shaw called the Board meeting to order at 2:35 P.M. He welcomed those in attendance and invited the members of the audience to introduce themselves.

APPROVAL OF MINUTES OF THE SEPTEMBER 24, 2001 MEETING

Ms. Wechsler noted one correction in the Minutes on page 1.4 in the action taken, Ms. Wechsler's name was spelled incorrectly.

Action Taken: It was moved by Mr. Sims, seconded by Mr. Adams and unanimously carried to approve the minutes of the August 10, 2001 meeting with the noted spelling correction.

RULEMAKING

Skyline Mine (Canyon Fuel Co): Mr. Moellmer explained that Skyline Mine in Emery County encountered a major source of ground water which has greatly increased the volume of water needing to be discharged from the mine. They have ceased coal production for now and are working to install piping and pumps to increase the rate of discharge to the Eccles Creek discharge point. Skyline Mine is requesting to discharge into Electric Lake. Electric Lake presently has a High Quality Water designation of Category I (no new point source discharges allowed) and it is proposed to change it to a Category 2 (new discharge allowed if there is no degradation of water quality). Changing the designation of Electric Lake to a Category 2 would allow a discharge if the quality of the receiving water is not degraded. The company must still receive permission from Pacific Corp, owner of Electric Lake. If it becomes apparent before rulemaking is completed that a discharge to Electric Lake cannot occur for other reasons, final adoption of the change would not be required. Eugene Johanson from Emery County gave a brief explanation of the history of Skyline Mine and explained they are in support of Skyline Mine's request.

Action Taken: **It was moved by Mr. Sims and seconded by Rob Adams and unanimously carried to begin the rulemaking process and to receive public comment on the proposed rule change.**

Adoption of changes to UAC R317-8-4.1 (13) - Mr. Pehrson explained the results of the general comments received in regards to the proposed changes in the rule. The State of Utah was delegated authority by the EPA to administer the NPDES discharge permits program in 1987. One of the original conditions was that the State rules could not be less stringent than the federal rules. The legislature then passed a bill that State rules could not be more stringent than the corresponding federal requirements with the exception that the Board may make more stringent rules if the corresponding federal regulations are not adequate to protect public health and the environment. The law also established the procedural "path" that the Board must follow if it believes more stringent rules are necessary. In October 2000 a large municipal wastewater treatment plant undergoing a major construction project, bypassed for 18-1/2 hours, spilling over 25 million gallons of raw sewage into the lower Weber River. While the permittee complied with the rule, the public who were using this water for irrigation, recreation and possibly other uses was unknowingly exposed to the health hazard caused by this bypass. Without changes to the rules, this situation can be expected to repeat itself. A repeat of this situation can be averted by a change in the rules to: 1) require more advance notice and 2) make it a regulatory requirement to provide more detailed written justification for the bypass, develop a specific plan to minimize impacts and to measure those impacts to public health and the environment, and to develop and implement a notification plan. Mr. Pehrson requested two specific actions be voted on: 1) Approve the "finding" that more stringent rules are necessary to protect public health and the environment and 2) Adopt the rule changes as proposed.

Action Taken: **1) It was moved by Ms. Wechsler and seconded by Mr. Sims and unanimously carried to approve the finding that more stringent rules are necessary to protect public health and the environment.**

2) It was moved by Mr. Adams and seconded by Ms. Wechsler and unanimously carried to adopt the proposed rule changes.

LOAN PROGRAM

- 1. Financial Assistance Status Report** - Ms. Hess updated the board on the “Summary of Assistance Program Funds” as outlined under Tab 3.1.
- 2. Bear Lake Special Service District (ACTION ITEM)** - Mr. Beavers explained that the Bear Lake Special Service District (BLSSD) is requesting assistance from the Water Quality Board in the amount of \$2,230,000 for the design and construction of a new centralized wastewater collection system along the southeast shoreline of Bear Lake, lift station, force main and an incremental portion of a lagoon expansion project. BLSSD is also requesting a \$180,300 Hardship Design Advance to complete the design of the proposed facilities. The BLSSD held a public contribution of \$390,500. Mr. Shaw clarified that the public vote will occur in the course of an annexation process.

Action Taken: It was moved by Mr. Sims and seconded by Ms. Bunker, and unanimously carried to approve the request as recommended by staff.

STAFF REPORTS

- 1. Central Valley Raw Sewage Bypass** - Mr. Pehrson introduced Reed Fisher, Manager of Central Valley Water Reclamation Facility. Mr. Pehrson explained a bypass occurred on August 22, 2001 while Central Valley was testing newly installed electrical equipment and one of six capacitors over heated and exploded, causing a fire. The fire prevented them from gaining access to the electrical controls enabling them to switch over to auxiliary power supply. They were left with no power to operate the treatment plant. During this brief period of time it is estimated approximately 4.2 million gallons of raw sewage was released. The shorelines of Mill Creek and ½ mile downstream on the Jordan River was surveyed to visually identify raw sewage debris contamination. The Division of Water Quality and Central Valley monitor the Jordan River at locations upstream and downstream to assess the quality of the river. Mr. Fisher gave a detailed account of the events which occurred and lead up to the bypass as well as steps they are taking to prevent a similar event from occurring.
- 2. Office of Inspector General (OIG) Audit Report on State Water Enforcement** - Mr. Pehrson explained the Division’s point of view on the report and to clarify several newspaper articles. The articles were basically quoting findings which were included in the EPA report from the Inspector General. The audit was conducted last year to determine if the EPA-authorized state enforcement programs protect the public and environment health. There are currently 44 states, including Utah, which administer the NPDES program in lieu of EPA. The report claims compliance systems lack data for hundreds of smaller discharges, serious toxicity violations and other violations are not recorded, strategy to identify unpermitted stormwater dischargers are incomplete, enforcement actions were issued a year or more after the violations, penalties are

inadequate and fail to recover the economic benefit for non compliance, and proactive strategies to avoid serious violations needed further development. These are serious indictments of state enforcement programs and Mr. Pehrson explained why they are not fair nor representative of Utah's situation. The division has written a letter to the Office of the Inspector General (included in the packet) to explain the State of Utah's perspective on the report.

3. Discussion of Legislative proposals to amend Wastewater Loan Statutes

broadening the use of funds - Mr. Ostler made the Board aware of two potential legislative changes to the statute that governs the Wastewater loan programs that are being discussed in various circles.

First:

The Drinking Water Board has the desire to make planning grants to communities that have public water systems, whether they're hardship or not. They have asked staff in the Attorney General's office to draft language to allow them to do that. This board has been making grants for planning purposes to communities, but always within the context of a hardship or melding it into a loan that would be paid back. The decision is whether we want to be a part of that request or not and if the language should include the Water Quality Board or not. Mr. Ostler noted that presently the Division doesn't have a real need to be a part of this, and if done in the future it would have to be an amendment. Drinking Water's motivation is to stimulate "planning for everyone".

Second:

Potential change in the loan statutes. As a result of discussion with the Governor's office with DNR, they wish to encourage water conservation and want the Water Coordinating Committee, which includes, Water Resources, Water Quality, Drinking Water and the Community Impact Board, to contribute funds to help with this effort. DEQ's share would be \$70,000. We have no way to fund that, except to do it the same way the Water Resources Board does, which is getting the statute language broadened to say the Water quality Board can use funds from the loan security account for more purposes that relate to the Board's mission. There is a debate as to whether we have to be a part of that and Dianne Nielson has not received any signal from the Governor's office. There are arguments pro and con, however it's more clear with Drinking Water, which has a direct tie to water conservation. It's much less clear with Water Quality. Mr. Ostler asked the board to consider how they feel about the proposal and let him know they're thoughts.

NEXT MEETING

The next meeting of the Board is scheduled to be held on November 30, 2001 in the Cannon Building, Room 125.

K. C. Shaw, Chairman